



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2008-0486; EPA-R01-OAR-2008-0223; EPA-R01-OAR-2008-0447; EPA-R01-OAR-2009-0358; FRL-9953-85-Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Maine, New Hampshire, Rhode Island, and Vermont; Interstate Transport of Air Pollution

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the Maine Department of Environmental Protection (ME DEP), the New Hampshire Department of Environmental Services (NH DES), the Rhode Island Department of Environmental Management (RI DEM) and the Vermont Department of Environmental Conservation (VT DEC). These SIP revisions address provisions of the Clean Air Act that require each state to submit a SIP to address emissions that may adversely affect another state's air quality through interstate transport. The EPA has concluded that all four States have adequate provisions to prohibit in-state emissions activities from significantly contributing to the nonattainment, or interfering with the maintenance, of the 2008 ozone National Ambient Air Quality Standards (NAAQS) in any other state. The intended effect of this action is to approve the SIP revisions submitted by Maine, New Hampshire, Rhode Island, and Vermont. This action is being taken under the Clean Air Act.

DATES: This rule is effective on [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established separate dockets for this action under Docket Identification No.'s EPA-R01-OAR-2008-0486 for Maine, EPA-R01-OAR-2008-0223 for New Hampshire, EPA-R01-OAR-2008-0447 for Rhode Island, and EPA-R01-OAR-2009-0358 for Vermont. All documents in the docket are listed on the <http://www.regulations.gov> web site, although some information, such as confidential business information or other information whose disclosure is restricted by statute is not publically available. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <http://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05-02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109-3912; (617) 918-1664; burkhart.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background
- II. Public Comments
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background

This rulemaking approves SIP submissions from the ME DEP, the NH DES, the RI DEM, and the VT DEC. The SIP revisions were submitted on the following dates: October 26, 2015 (Maine); November 17, 2015 (New Hampshire); June 23, 2015 (Rhode Island) and November 2, 2015 (Vermont). These SIP submissions address the requirements of Clean Air Act (CAA) section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS.¹

On August 23, 2016 (81 FR 57519), EPA published a notice of proposed rulemaking

¹ We note that while the SIP revisions submitted by Maine, New Hampshire, and Rhode Island address only the transport elements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS, Vermont’s submittal addresses all of the infrastructure elements of CAA section 110(a)(2) for the 2008 ozone NAAQS. Today’s action, however, only addresses the transport elements of Vermont’s submittal.

(NPR) proposing approval of these four SIP submissions. The specific details of each state's SIP submission and the rationale for EPA's approval of each SIP submission are discussed in the NPR and will not be restated here.

II. Public Comments

EPA did not receive any comments in response to the NPR.

III. Final Action

EPA is approving the SIP revisions submitted by the states on the following dates as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS: October 26, 2015 (Maine); November 7, 2015 (New Hampshire); June 23, 2015 (Rhode Island); and November 2, 2015 (Vermont). EPA has reviewed these SIP revisions and has found that they satisfy the relevant CAA requirements.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 27, 2016.

Michael Kenyon,
Acting Regional Administrator,
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart U–Maine

2. In §52.1020, the table in paragraph (e) is amended by adding the entry “Transport SIP for the 2008 Ozone Standard” to the end of the table to read as follows:

§52.1020 Identification of plan.

* * * * *

(e) * * *

MAINE NON REGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date³	Explanations
**	*	*	*	**
Transport SIP for the 2008 Ozone Standard	Statewide	Submitted 10/26/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	State submitted a transport SIP for the 2008 ozone standard which shows it does not significantly contribute to ozone nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).

³ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

Subpart EE–New Hampshire

3. In §52.1520, the table in paragraph (e) is amended by adding the entry “Transport SIP for the 2008 Ozone Standard” to the end of the table to read as follows:

§52.1520 Identification of plan.

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(e) * * *

NEW HAMPSHIRE NONREGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date ³	Explanations
**	*	*	*	**
Transport SIP for the 2008 Ozone Standard	Statewide	Submitted 11/7/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	State submitted a transport SIP for the 2008 ozone standard which shows it does not significantly contribute to ozone nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).

³ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

Subpart OO–Rhode Island

4. In §52.2070, the table in paragraph (e) is amended by adding the entry “Transport SIP for the 2008 Ozone Standard” to the end of the table to read as follows:

§52.2070 Identification of plan.

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(e) * * *

Rhode Island Non Regulatory

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
**	*	*	*	**
Transport SIP for the 2008 Ozone Standard	Statewide	Submitted 6/23/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	State submitted a transport SIP for the 2008 ozone standard which shows it does not significantly contribute to ozone nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).

Subpart UU–Vermont

5. In §52.2370, the table in paragraph (e) is amended by adding the entry “Transport SIP for the 2008 Ozone Standard” to the end of the table to read as follows:

§52.2370 Identification of plan.

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(e) * * *

Vermont Non-Regulatory

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
**	*	*	*	**

Transport SIP for the 2008 Ozone Standard	Statewide	Submitted 11/2/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	State submitted a transport SIP for the 2008 ozone standard which shows it does not significantly contribute to ozone nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).
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